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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,138	05/30/2001	Makoto Kai	5077-000051	8863
27572	7590	04/16/2004	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			HARPER, HOLLY R	
			ART UNIT	PAPER NUMBER
			2879	

DATE MAILED: 04/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/870,138

Applicant(s)

KAI ET AL.

Examiner

Holly R. Harper

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6, and 24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6 and 24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Response to Amendment

The Amendment, filed on 12/24/03, has been entered and acknowledged by the Examiner.

Claim 24 has been entered.

Claims 1 and 5 have been amended.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kyoichi (JP 06227381).

In regard to claim 1, the Kyoichi reference discloses a gas discharge lamp with a light emitting tube (abstract). The lamp has a pair of electrodes (Figure 1, element 2a and 2b) opposed to each other inside the tube and sealing portions for enclosing the metal foils (Figure 1, Element 5). The foils are electrically connected to the electrodes and to the external leads

(Figure 1, Element 6). The external leads are connected to the nickel leads by a nickel sleeve (Figure 1, Element 7 and 8) for external connection to an external circuit.

The Examiner notes that the claim limitation of “by plastic flow of a caulking member by applying stress from the outside of the caulking member” is drawn to a process of manufacturing, which is incidental to the claimed apparatus. It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of an unobvious difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

In regard to claim 2, the Kyoichi reference discloses that the external lead and the nickel lead are connected by a nickel sleeve, which is cylindrical in shape (Figure 1, Element 8).

In regard to claim 3, the Kyoichi reference discloses that the external leads are made of molybdenum (Column 4, Line 6) and the sleeve is made of nickel, which is a softer material than the molybdenum.

In regard to claim 24, the Kyoichi reference discloses that the sleeve is made of nickel, which has oxidation resistant properties.

3. Claims 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakagawa (USPN 6,242,861 B1).

In regard to claim 5, the Nakagawa reference discloses a discharge lamp with a luminous bulb (Figure 1, Element 1a), a luminous material (Column 4, Lines 41-46), a pair of electrodes are opposed to each other inside the bulb (Figure 1, Element 2a and 2b), a pair of sealing portions (Figure 1, Elements 4 and 5), a pair of metal foils connected to the electrodes (Figure 1, Element 3b), and a pair of external leads connected to the metal foils (Figure 1, Element 3c).

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One of the external leads and a lead wire for external connection are integrally formed of a continuous and common piece of material (Figure 1, Element 3c and Figure 3).

In regard to claim 6, the Nakagawa reference discloses a reflecting mirror for reflecting light emitted from the discharge lamp (Figure 3, Element 8).

Response to Arguments

4. Applicant's arguments filed 12/24/03 have been fully considered but they are not persuasive.

Regarding applicants claim that Kyoichi (JP 06227381) does not disclose plastic flow of a caulking member, the examiner respectfully agrees. However, it is believed that the end product of the applicant and Kyoichi are not patentably different. The connection piece between the external leads and the lead wire provides an electrical connection, has a cylindrical shape, is formed of a material softer than molybdenum, and has excellent oxidation resistance properties.

5. Applicant's arguments with respect to claims 5 and 6 have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Holly Harper whose telephone number is (571) 272-2453. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel, can be reached on (571) 272-2457. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Holly Harper
Patent Examiner
Art Unit 2879

